



Australian Capital Territory

Poisons Amendment Regulation 2007 (No 1)

Subordinate Law SL2007-33

The Australian Capital Territory Executive makes the following regulation under the *Poisons Act 1933*.

Dated 2 October 2007.

ANDREW BARR
Minister

SIMON CORBELL
Minister



Australian Capital Territory

Poisons Amendment Regulation 2007 (No 1)

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made under the

Poisons Act 1933

1 Name of regulation

This regulation is the *Poisons Amendment Regulation 2007 (No 1)*.

2 Commencement

This regulation commences on 2 October 2007.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This regulation amends the *Poisons Regulation 1933*.

4 Section 2

substitute

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*external driver licence*—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.' means that the term 'external driver licence' is defined in that dictionary and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act s 127 (1), (4) and (5) for the legal status of notes.

5 New sections 5A to 5E

insert

5A Requirement to tell buyer about pseudoephedrine record

- (1) This section applies if a person (the *seller*) sells pseudoephedrine to someone (the *buyer*) by retail.

Note *Sell by retail* does not include selling on prescription (see dictionary).

- (2) The seller must tell the buyer the following:
- (a) that the seller is required to make a record of the sale;
 - (b) that the buyer may refuse to provide information for the record but, if the buyer refuses, the seller must not sell pseudoephedrine to the buyer;
 - (c) that the record may be made available to the following people:
 - (i) a police officer;
 - (ii) a public servant who is a member of the administrative unit to which the chief health officer belongs;
 - (iii) anyone else who supplies pseudoephedrine to the public in Australia;
 - (iv) a public servant of the Commonwealth or of a State who is a member of an administrative unit that administers legislation about poisons;
 - (v) the Pharmacy Guild of Australia;
 - (d) that the buyer has the right to access the record and have any mistake corrected.

Note If a form is approved under the Act, s 20A for this provision, the form must be used.

- (3) A person commits an offence if—
- (a) the person sells pseudoephedrine by retail to someone else (the *buyer*); and
 - (b) before the sale, the person did not tell the buyer something the person was required under subsection (2) to tell the buyer.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

(5) In this section:

police officer includes a member of a police force (however described) of a State.

5B Records of pseudoephedrine sales

(1) A person (the *seller*) who sells pseudoephedrine to someone (the *buyer*) by retail must, at the time of the sale, make a record of the following:

- (a) the date of sale;
- (b) the brand name, dosage form and quantity of pseudoephedrine sold;
- (c) the buyer's name and address;
- (d) a unique identification number for the buyer from—
 - (i) a photo identification document produced to the seller by the buyer; or

Example

a person's driver licence number

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (ii) if the buyer cannot produce a photo identification document—a non-photo identification document produced to the seller by the buyer;
- (e) the kind of identification the buyer produces.

Note If a form is approved under the Act, s 20A for this provision, the form must be used.

(2) The record must be—

- (a) in English; and
- (b) in writing; and

Note Under the *Electronic Transactions Act 2001*, s 11 records may be kept electronically in some cases.

(c) made in such a way that the record is easily retrievable.

(3) A person commits an offence if the person—

- (a) sells pseudoephedrine by retail; and
- (b) does not make a record in accordance with this section.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

(5) In this section:

non-photo identification document, for a person, means either of the following documents:

- (a) the person's birth certificate that—
 - (i) identifies the issuing jurisdiction; and
 - (ii) states the date of issue;
- (b) an Australian or New Zealand seniors card.

photo identification document, for a person, means any of the following documents if the document is current and contains the person's photograph:

- (a) the person's Australian driver licence;
- (b) the person's external driver licence;
- (c) the person's passport, other than an Australian passport;
- (d) the person's proof of age card;

- (e) the person's Australian student identification card.

Note This provision includes the following terms that are defined in the dictionary: *Australian student identification card, birth certificate, external driver licence, proof of age card.*

5C Buyer access to pseudoephedrine record

- (1) This section applies if—
 - (a) a person (the *buyer*) buys pseudoephedrine by retail from someone (the *seller*); and
 - (b) the seller makes a record under section 5A about the purchase.
- (2) If the buyer asks to see the record, the seller must, within a reasonable period, allow the buyer to see the record.
- (3) If the buyer believes the record is incorrect, the buyer may ask the seller to change the record.
- (4) The seller may change the record in accordance with the request.

5D Failure to change pseudoephedrine record

- (1) This section applies if—
 - (a) a person (the *buyer*) asks someone (the *seller*) under section 5C to change a pseudoephedrine record; and
 - (b) the seller does not make the change.
- (2) The buyer may, in writing, apply to the chief health officer for a direction to the seller to make the change.
- (3) The chief health officer must—
 - (a) give a copy of the application to the seller; and
 - (b) ask the seller to give written reasons not later than 10 working days why the change should not be made.

5E Chief health officer's decision

- (1) After considering an application under section 5D (2) and any reasons given in accordance with the request under section 5D (3), the chief health officer must—
 - (a) direct the seller to change the pseudoephedrine record—
 - (i) in accordance with the application; or
 - (ii) in a stated way other than in accordance with the application; or
 - (b) refuse the application.
- (2) The chief health officer must give the buyer and seller written notice of the decision.
- (3) A person commits an offence if—
 - (a) the chief health officer directs the person in writing to change a pseudoephedrine record; and
 - (b) the seller does not change the record as directed.Maximum penalty: 10 penalty units.
- (4) An offence against this section is a strict liability offence.

6 New dictionary

insert

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- Australian driver licence

- person
- prescribed
- State.

Note 3 Terms used in this regulation have the same meaning that they have in the *Poisons Act 1933* (see Legislation Act, s 148). For example, the following terms are defined in the *Poisons Act 1933*, dict:

- drugs and poisons standard
- sell.

Australian student identification card means a card issued to a person who is a student at an Australian secondary or tertiary education institution to identify the person as a student at the institution.

birth certificate, for a person, means the person's birth certificate, or a certified extract from the register about the person's birth, under the *Births, Deaths and Marriages Registration Act 1997* or a corresponding law of a State, an external Territory or New Zealand.

external driver licence—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

prescriber, for a prescription, means a person authorised to give the prescription.

proof of age card means a proof of age card issued under the *Liquor Act 1975* or a law of a State, an external Territory or New Zealand.

pseudoephedrine means pseudoephedrine to which the drugs and poisons standard, schedule 3 applies.

pseudoephedrine record means a record made under section 5A about a sale of pseudoephedrine.

recipient means—

- (a) for a prescription for an individual—the person for whom the prescription is given; and

(b) for a prescription given for the treatment of an animal—an owner of the animal or a person who has the care of the animal. *sell*, by retail, does not include sell on prescription.

Endnotes

1 Notification

Notified under the Legislation Act on 3 October 2007.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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